

Supreme Court, U. S.

~~FILED~~

FEB 25 1977

MICHAEL RODAK, JR., CLERK

IN THE  
Supreme Court of the United States

OCTOBER TERM, 1976

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NO. 76-802  
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H. GORDON HOWARD, *Appellant*

vs.

THE REAL ESTATE COMMISSION  
OF THE STATE OF COLORADO, *Appellee*

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*APPELLANT'S BRIEF OPPOSING MOTIONS  
TO DISMISS OR AFFIRM*  
\_\_\_\_\_

H. GORDON HOWARD  
Plaintiff and Appellant, Pro Se,  
2470 South Ivanhoe Place  
Holly Hills  
Denver, Colorado 80222

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**Supreme Court of the United States**  
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H. GORDON HOWARD, *Appellant*

vs.

THE REAL ESTATE COMMISSION  
OF THE STATE OF COLORADO, *Appellee*

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*To the honorable Chief Justice and Associate Justices  
of the Supreme Court of the United States:*

COMES NOW the appellant, H. Gordon Howard, Pro Se, and files his brief opposing motions to dismiss or affirm, as follows, to wit:

I. GROUNDS OF OPPOSITION

1. Under Colorado Revised Statutes of 1963, Chapter 117-1-8 (4), a person can be arbitrarily and discriminatorily refused a real estate license, just because he is "Black", or "Brown", or a "Woman", or a Republican, or a Democrat, or for any other discriminatory reason. This statute in controversy herein embodies the worst kind of discrimination as to whom must, or must not, take the real estate examination -- a discrimination based on whimsical and arbitrary prejudice. Shall such a statute of uncontrolled whimsical discrimination be allowed to stand without a Federal Court Constitutional determination?

2. All arguments presented by appellee's motion to dismiss or affirm were denied and rejected by the Honorable Robert E. McLean of the Denver County District Court, and by the Honorable John R. Moran, Jr., a Special Administrative Law Judge, over the real estate appeal matters, who determined the facts, conclusions and findings of the subject matter of the controversy before the judgment entered in appellant Howard's favor by the said Judge McLean. The appellee herein is arguing at random, avoiding the issues raised by the appellant on this appeal herein, and merely rehashing the arguments that were rejected by the State Court Judge, McLean, and the Administrative Law judge of appellate real estate review, namely, the Honorable John R. Moran, Jr.

3. The appellant Howard did raise the Constitutional issue of his right to a hearing on his Constitutional rights under the 14th Amendment before the Supreme Court of Colorado on Petition for Certiorari. This issue couldn't be raised in the Colorado Court of Appeals, because that court, as shown in appellant's jurisdictional statement, had no jurisdiction to hear Constitutional Questions. A plaintiff has the option to raise his federal questions at any stage of State litigation in the State Courts. This option the appellant herein, as plaintiff below, exercised in both Judge McLean's trial court, and on the Petition for Certiorari, mentioned supra.

4. The Federal 3-judge panel limited its decision to the question that inquired as to whether the said panel could interfere with a state court, non-federal, decision. Therefore, the only issue presentable by this appeal is set forth in appellee's jurisdictional statement, namely, "Can a federal 3-judge panel deprive a United States Citizen of the right to a hearing on a Federal Constitutional, or Statutory, question, by not recognizing that the plaintiff has a right to a hearing on federal questions, in a case where the state courts of appeal afforded the said plaintiff no right to be heard on the federal questions put before them?"

If a plaintiff cannot raise and be heard on his federal question rights, as a United States Citizen, anywhere during the litigation, in both the state courts and the federal court, doesn't it appear that the Constitution of the United States, and the Federal Statutes, are an absolute vacuum of justice, and have no verility, and are dead laws?

## CONCLUSION

Wherefore, the appellant herein, respectfully requests this Honorable Supreme Court of the United States to confine this appeal to the federal issue raised in appellant's jurisdictional statement on the subject of whimsical and arbitrary and prejudicial discrimination; and to deny the appellee's motions; and then to enter judgment for the appellant on the federal question raised on this appeal, as set forth in Appendix B, of page 5a of appellant's jurisdictional statement, and at paragraph 8 on page 2 thereof.

RESPECTFULLY SUBMITTED,

H. Gordon Howard, ProSe,  
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